

House File 289 - Introduced

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BY WESSEL-KROESCHELL

A BILL FOR

1 An Act relating to evidence of financial responsibility
2 required to be furnished by certain pesticide applicators
3 to the department of agriculture and land stewardship, and
4 including effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 206.13, Code 2015, is amended to read as
2 follows:

3 **206.13 Evidence of financial responsibility required by**
4 **commercial applicator applicators.**

5 1. The department shall not issue a commercial applicator's
6 license as required in section 206.6 until the applicant
7 has furnished evidence of financial responsibility ~~with~~ to
8 the department. The evidence of financial responsibility
9 shall consist of a surety bond, a liability insurance policy,
10 or an irrevocable letter of credit issued by a financial
11 institution. ~~The department may accept a certification~~
12 ~~of the evidence of financial responsibility.~~ The evidence
13 of financial responsibility shall pay the amount that the
14 beneficiary is legally obligated to pay as damages caused
15 by the pesticide operations of the applicant. However, the
16 evidence of financial responsibility does not apply to damages
17 or an injury which is expected or intended from the standpoint
18 of the beneficiary. A liability insurance policy shall be
19 subject to the insurer's policy provisions filed with and
20 approved by the commissioner of insurance. The evidence of
21 financial responsibility need not apply to damages or injury to
22 agricultural crops, plants, or land being worked upon by the
23 applicant.

24 2. The amount of the evidence of financial responsibility
25 as provided for in this section shall be not less than one
26 ~~hundred thousand~~ million dollars for property damage and
27 public liability insurance, each separately, or liability
28 insurance with limits of ~~one~~ three hundred thousand dollars
29 per occurrence and ~~three~~ six hundred thousand dollars annual
30 aggregate. The evidence of financial responsibility shall be
31 maintained at not less than that amount at all times during
32 the licensed period. The department shall be notified ten
33 days prior to any reduction in the surety bond or liability
34 insurance made at the request of the applicant or cancellation
35 of the surety bond by the surety or the liability insurance

1 by the insurer. The department shall be notified ninety
 2 days prior to any reduction of the amount of the irrevocable
 3 letter of credit at the request of the applicant or the
 4 cancellation of the irrevocable letter of credit by the
 5 financial institution. The total and aggregate liability of
 6 the surety, insurer, or financial institution for all claims
 7 shall be limited to the face of the surety bond, liability
 8 insurance policy, or irrevocable letter of credit.

9 3. Upon request by a person who alleges damages caused
 10 by the pesticide operations of a commercial applicator,
 11 the department shall provide that person with a copy of
 12 the evidence of financial responsibility or any related
 13 notification furnished by such commercial applicator to the
 14 department under this section.

15 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
 16 immediate importance, takes effect upon enactment.

17 EXPLANATION

18 The inclusion of this explanation does not constitute agreement with
 19 the explanation's substance by the members of the general assembly.

20 BILL'S PROVISIONS. This bill eliminates a provision that
 21 allows a commercial applicator of pesticides to furnish a
 22 certification in lieu of evidence of financial responsibility
 23 and requires the department provide evidence of financial
 24 responsibility and related documents to a person alleging
 25 damages caused by a commercial applicator. The bill also
 26 increases the limits for evidence of financial responsibility
 27 from \$100,000 to \$1 million for property damage and public
 28 liability damage each separately. The limits for liability
 29 insurance are increased from \$100,000 to \$300,000 per
 30 occurrence and from \$300,000 to \$600,000 as an annual
 31 aggregate.

32 TERMS. A commercial applicator is a person who applies
 33 pesticides for compensation, but does not include a farmer
 34 trading work with another farmer, a person employed by a farmer
 35 who applies pesticides as an incidental part of the person's

1 duties, or a person who applies pesticides as an incidental
2 part of a custom farming operation. Evidence of financial
3 responsibility includes a surety bond, a liability insurance
4 policy, or an irrevocable letter of credit. A pesticide
5 includes any substance that prevents, destroys, or mitigates
6 pests in the form of plant or animal life and viruses, and
7 includes plant growth regulators, defoliants, and desiccants.
8 EFFECTIVE DATE. The bill takes effect upon enactment.